

Title 9
CONDOMINIUM ORDINANCE

Chapters:

- 9-1 GENERAL PROVISIONS**
- 9-2 APPLICATION AND APPROVAL**
- 9-3 CONDOMINIUM CONVERSION**
- 9-4 DESIGN STANDARD**
- 9-5 ENFORCEMENT**

**Chapter 9-1
GENERAL PROVISIONS**

Sections:

- 9-1-101 SHORT TITLE.**
9-1-102 PURPOSE AND OBJECTIVES.
9-1-103 DEFINITIONS.

9-1-101. SHORT TITLE.

This Title shall be known as the "West Valley City Condominium Ordinance." This Title shall also be known as Title 9, West Valley City Code. It may be cited and pleaded under either designation.

9-1-102. PURPOSE AND OBJECTIVES.

(1) The procedure and requirements of this Title shall apply to and govern the construction and/or conversion of condominiums, and approval of all bylaws, record of survey maps, and declarations for condominium projects within the corporate limits of the City. Said provisions shall supplement zoning, health, building or other ordinances which may be applicable to a particular condominium project, and shall apply to the approval of condominium projects involving new construction as well as conversion of existing structures.

(2) The procedures set forth herein are intended to recognize the unique characteristics of condominiums and condominium conversions and to provide a review process and a set of standards which will address these unique characteristics and to reduce any negative impacts upon the community, neighborhood areas, or prospective owners which may result from the creation of a condominium of condominium conversion.

(3) Condominium ownership differs in numerous respects from conventional building ownership. It is in the interest of the public health, safety and welfare that condominium projects, pursuant to the Condominium Ownership Act, Sections 57-8-1, et. seq., Utah Code Annotated, 1953 as amended, should be reviewed and approved by the City and appropriately regulated for the protection of the community, displaced tenants, and prospective purchasers of condominium units.

(4) In addition, condominium projects which contemplate dedication of real property or improvements for the use of the public, or condominium projects which convey specific title to land, or projects which are not contained in existing or proposed buildings, shall also be considered subdivisions requiring compliance with applicable provisions of the West Valley City Subdivision Ordinance.

9-1-103. DEFINITIONS.

Whenever any words or phrases used in this Title are not defined herein, but are defined in related sections of the Utah Code, in the Zoning Ordinance, or in the Subdivision Ordinance, such definitions are incorporated herein and shall apply as though set forth herein in full, unless the context clearly indicates a contrary intention.

Unless a contrary intention clearly appears, words used in the present tense include the future, the singular includes the plural, the term shall is always mandatory, and the term may is permissive. The following terms, as used in this Ordinance, shall have the respective meanings hereinafter set forth.

(1) Building means a building containing units, and comprising a part of a property.

(2) City means West Valley City, Utah.

(3) Condominium means the ownership of a single unit in a multiunit project, together with an undivided interest in common in the common areas and facilities of the property. Condominium also means planned unit development, as defined in this Section, unless the context clearly indicates otherwise.

(4) Condominium project means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings, or structures or otherwise, are separately offered or proposed to be offered for sale. Condominium project shall also mean the property when the context so requires.

(5) Condominium unit means a unit, together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this act to a condominium unit includes both a physical unit, together with its appurtenant and undivided interest in the common areas and facilities, and a time period unit, together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(6) Conversion means a proposed change in the type of ownership of a parcel or parcels of land and/or existing structures from single ownership, such as an apartment house or multifamily dwelling into a "condominium project," as herein defined with arrangements involving separate ownership of individual condominium units and joint collective ownership of common areas or facilities.

(7) Common Areas and Facilities, unless otherwise provided in the declaration or lawful amendments thereto, mean and include:

- (a) The land included within the condominium project, whether leasehold or in fee simple;
- (b) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs,

- stairways, fire escapes, and entrances and exits of the building;
 - (c) The basements, yard, gardens, parking areas and storage spaces;
 - (d) The premises for lodging of janitors or persons in charge of the property;
 - (e) Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;
 - (f) The elevators, tanks, pumps, motors, fans, compressors, ducts and, in general, all apparatus and installations existing for common use;
 - (g) Such community and commercial facilities as may be provided for in the declaration; and
 - (h) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.
- (8) Common Expenses mean and include:
- (a) All sums lawfully assessed against the unit owners;
 - (b) Expenses of administration, maintenance, repair or replacement of the common areas and facilities;
 - (c) Expenses agreed upon as common expenses by the association of unit owners; and
 - (d) Expenses declared common expenses by provisions of this Chapter, or by the declaration or the bylaws.
- (9) Declarant means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors did shall also come within this definition.
- (10) Declaration means a recorded declaration containing covenants, conditions and restrictions relating to the condominium project which shall be prepared in conformance with the provisions of Section 57-8-10, Utah Code Annotated, 1953, as amended.
- (11) Limited Common Areas and Facilities mean and include those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.
- (12) Open space means landscaped areas that are not occupied by buildings, structures, parking areas, streets or alleys and are devoted to recreation use or preservation of natural features.

(13) Property means and includes the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(14) Person means any person, firm, corporation, partnership or association.

(15) Planned Unit Development means an integrated design for development of residential, commercial or industrial uses, or combination of such uses, in which one or more of the regulations, other than use regulations, of the district in which the development is to be situated, is waived or varied to allow flexibility and initiative in site and building design and location in accordance with an approved plan and imposed general requirements as specified in this Title. A planned unit development may be:

- (a) The development of compatible land uses arranged in such a way as to provide desirable living environments that may include private and common open spaces for recreation, circulation and/or aesthetic uses;
- (b) The conservation or development of desirable amenities not otherwise possible by typical development standards; and
- (c) The creation of areas for multiple use that are of benefit to the neighborhood.

(16) Record of Survey Map means a plat or plats of survey of land and units prepared in accordance with the requirements of the West Valley City Subdivision Ordinance.

(17) Unit means either a separate physical part of the property intended for any type of independent use, including one or more rooms or spaces located in one or more floors (or part or parts of floors) in a building or a time period unit, as the context may require.

(18) Unit Number means the number, letter or combination thereof designating the unit in the declaration and on the record of survey map.

(19) Unit Owner means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

**Chapter 9-2
APPLICATION AND APPROVAL**

Sections:

9-2-101	APPROVAL REQUIRED.
9-2-102	PRELIMINARY APPLICATION
9-2-103	PRELIMINARY EVALUATION.
9-2-104	ACTION BY PLANNING COMMISSION - PRELIMINARY.
9-2-105	NOTIFICATION OF APPROVAL.
9-2-106	EFFECT OF PRELIMINARY APPROVAL.
9-2-107	FINAL EVALUATION.
9-2-108	ACTION BY PLANNING COMMISSION - FINAL.
9-2-109	ACTION BY CITY COUNCIL.
9-2-110	APPEALS.
9-2-111	PERFORMANCE BOND.
9-2-112	RECORDING OF RECORD OF SURVEY MAP.
9-2-113	EXPIRATION OF FINAL APPROVAL.

9-2-101. APPROVAL REQUIRED.

Prior to the construction or conversion of any building to be used as a condominium, the record of survey map, the bylaws, and the declaration therefor shall be submitted to and be approved by the City in conformance with the procedures, requirements and standards contained herein, and as required under the Utah Condominium Ownership Act.

9-2-102. PRELIMINARY APPLICATION

The owner or developer of a proposed condominium project desiring approval shall file an application with the Community Development Department on a form prescribed by the City. Said application shall be accompanied by:

(1) Twelve copies of a preliminary record of survey map accurately drawn to scale which shall be prepared by an engineer or land surveyor registered in the State of Utah. The scale of said record of survey map shall be no smaller than one inch equals 50 feet. The preliminary record of survey map should conform in all respects to the West Valley City Subdivision Ordinance.

(2) Eight copies of a site plan prepared to the same scale as the record of survey map designating the location of buildings, present and needed utilities and irrigation ditches, and intended use of common areas, the locations of utility lines and easements, and the location and extent of storage, recreational facilities, parking, driveways, pedestrian ways, curbs, walls, fences, landscaping and sprinkling systems.

(3) Two copies of the proposed condominium declarations and bylaws.

(4) Where conversion of an existing building is proposed as part of the condominium project, a property report containing the information specified in this Title shall be submitted as part of the application, together with a plan for all proposed improvements and repairs.

(5) Proof of Notice to Tenants required by Section 9-3-104 to be submitted prior to final condominium approval.

(6) Fees shall be submitted with an application in the amounts as established by the Consolidated Fee Schedule of the City.

9-2-103. PRELIMINARY EVALUATION.

The Community Development Department shall check the preliminary application for general compliance with these regulations, design standards, and other applicable ordinances. If the application is not complete or not in general compliance, the Community Development Department shall notify the declarant and specify the respects in which it is deficient. If the submission is complete and in general compliance, the declarant shall transmit the requested number of copies of the development plans, together with accompanying data, to such public agencies and utilities as may be concerned. Each of the public agencies and utilities may forward to the Community Development Department a written report of its findings and recommendations. These agencies shall include, but not necessarily be limited to, the Community Development Department, Improvement Districts, Salt Lake County Health Department, the Public Works Department, the Fire Department, telephone company, gas company and power company.

**9-2-104. ACTION BY PLANNING COMMISSION
- PRELIMINARY.**

Within a reasonable time after the filing of a condominium application, the Planning Commission shall act thereof. If the Planning Commission finds that the proposed development complies with the requirements of this Title and that it is satisfied with the development plans, it shall recommend approval, or approval with conditions, of the application. If the Planning Commission finds that the proposed development does not meet the requirements of this Title, other applicable ordinances, or that it is not satisfied with the development plans, it shall recommend disapproval of such development.

9-2-105. NOTIFICATION OF APPROVAL.

The Community Development Department shall notify the declarant in writing, of the actions taken by the Planning Commission. One copy of the plat and accompanying conditions, if applicable, and the minutes of the Planning Commission meeting shall be retained in the permanent file of the Planning

Commission. Notification of affirmative action by the Planning Commission shall be authorization for the declarant to proceed with the preparation of specifications for the improvements required by City ordinances and by the Planning Commission, and with the preparation of final plans.

9-2-106. EFFECT OF PRELIMINARY APPROVAL.

Approval of the preliminary application shall in no way relieve the declarant of responsibility to comply with all required conditions and ordinances, and to provide the improvements and easements necessary to meet all City standards.

9-2-107. FINAL EVALUATION.

The Community Development Department shall check the final application for completeness and general compliance with this Title and for incorporation of any changes required during the preliminary approval procedure. If the submission is not complete, not in general compliance, or does not incorporate required changes, the Community Development Department shall notify the declarant and specify the respects in which it is deficient. If the submission is complete and incorporates required changes, the Community Development Department shall refer the application to the Public Works Department and other applicable agencies for their approval or direct the applicant to secure such approvals.

9-2-108. ACTION BY PLANNING COMMISSION - FINAL.

Upon receipt of the final plans, the Planning Commission shall examine the plans to determine whether they conform with the preliminary plans and with all changes requested and all requirements imposed as conditions of acceptance, and if the Planning Commission shall thereupon determine that the plans are in conformity therewith, it shall recommend approval of the plat. If the Planning Commission shall determine that the final plans do not conform to the preliminary plans as approved, it shall advise the declarant of the changes or additions that must be made for approval. The declarant shall be responsible for notifying the Community Development Department that he is ready to go to the City Council for final plat approval. If such notification is not given within 12 months from the date of final approval by the Planning Commission, such approval shall be null and void. This time period may be extended for up to 12 months if the applicant petitions the Planning Commission for an extension prior to the expiration date. Only one extension may be granted.

9-2-109. ACTION BY CITY COUNCIL.

(1) Within a reasonable time following the receipt of the condominium application by the City Manager, the City Council shall consider the application and any offers of dedication. If the City Council shall determine that the plans are in conformity with the requirements of this Title and other applicable ordinances and that it is satisfied with the plans of the development and offers of dedication, it shall approve the plat.

(2) If the City Council shall determine that the plans are not in conformity with the requirements of this Title, other applicable ordinances, any reasonable conditions imposed, or if it shall reject any offer or offers of dedication, it shall disapprove the plan specifying reasons for such disapproval. Within 1 year after the City Council has disapproved any plan, the subdivider may file with the Community Development Department a plan altered to meet the requirements of the City Council. No final plan shall have any force or effect until the same has been approved by the City Council.

9-2-110. APPEALS.

(1) Appeal may be made to the City Council from any decision, determination or requirement of the Planning Commission by filing with the City Recorder a notice thereof in writing within 10 days after such decision or determination, or requirement is made. Such notice shall set forth in detail the action and grounds upon which the subdivider, or other interested persons deems himself aggrieved.

(2) The City Recorder shall set the appeal for hearing before the City Council to be held within 45 days from the date of receipt of the appeal. Such hearing may, for good cause, be continued by order of the City Council. Written notice of the date set for hearing the appeal shall be mailed to the appellant at least 10 days before the appeal hearing date. After hearing the appeal, the City Council may affirm, modify or overrule the decision, determination or requirement appealed and enter any such order or orders as are in harmony with the spirit and purpose of this Title. The filing of an appeal shall stay all proceedings and actions in furtherance of the matter appealed, pending a decision of the City Council.

(3) The appellant may appeal any decision of the City Council to the District Court. Such appeal shall be made within 30 days of the rendering of a decision by the City Council.

9-2-111. PERFORMANCE BOND.

Bonding shall be required as specified in the West Valley City Subdivision Ordinance when any public improvements are required in conjunction with a new condominium project or with a condominium conversion.

9-2-112. RECORDING OF RECORD OF SURVEY MAP.

After City Council approval, completion of the required public improvements or filing of the bond agreement described in this Chapter, and signing of the plat by the City Manager, the plat shall be presented by the City Recorder to the Salt Lake County Recorder for recordation.

9-2-113. EXPIRATION OF FINAL APPROVAL.

If the requirements set forth in Section 9-2-112 above are not met by the subdivider within six months from the date of City Council approval, such approval shall be null and void. This time period may be extended for additional six-month periods by the City Manager. The subdivider must petition for an extension prior to the expiration of the original six months, or an extension previously granted. An extension may be granted only if the City Manager finds that the extension will not be detrimental to the City. If any of the fees charged as a condition of subdivision approval, including, but not limited to, inspection fees, parks fee, flood control fees, as well as the amounts the City uses to estimate bonds to insure completion of the improvements, have increased, the City Manager may require that the subdivider pay such increases as a condition of granting the extension.

**Chapter 9-3
CONDOMINIUM CONVERSION**

Sections:

- 9-3-101 REPORT OF PROPERTY CONDITION.**
9-3-102 REPORT OF BUILDING OFFICIAL.
9-3-103 TENANT NOTICE OF CONVERSION.
**9-3-104 SUBMISSION OF NOTICE
VERIFICATION.**
9-3-105 PROTEST REVIEW PROCEDURE.

9-3-101. REPORT OF PROPERTY CONDITION.

(1) As an element of any application for a condominium which includes the conversion of existing structures, the owner or developer shall submit a Report of Property Condition which is intended to insure that the standards of the declaration appropriately address existing and future conditions related to maintenance, upkeep and operation.

(2) The report of property condition shall be submitted on a form provided by the City and shall contain the following information:

- (a) The age of the building or buildings, with copies of original building plans and a disclosure of whether or not the actual building conforms to the plans.
- (b) Condition of structural elements, including roof, foundations, walls, mechanical systems, electrical system, plumbing system and heating system. A plan showing which parts of the system are maintained in common and which are maintained by individual units.
- (c) Size of water service lines from meter to main and from main to buildings.
- (d) Size and location of sewer lateral.
- (e) Capacity of electrical service for each unit measured in amps.
- (f) Condition of paving materials on private streets, if any.
- (g) Condition of paving or surfacing material on driveways, parking areas, sidewalks, curbs, etc. Detailed plan of parking and traffic circulation.
- (h) Condition of paint and/or exterior surfaces of all buildings and structures.
- (i) All known conditions constituting deficiencies.
- (j) All known conditions which may require repair or replacement within the next succeeding five-year period.

The above report may be referred back to the applicant by the City for additional detail as is necessary to adequately evaluate the physical condition of the building, equipment and premises.

9-3-102. REPORT OF BUILDING OFFICIAL.

(1) At the time of submission of an application for a condominium which involves the conversion of any existing buildings, the Building Inspection Division shall make an inspection of the proposed condominium project to determine compliance with the life-safety provisions of the Uniform Building Code as adopted by the City.

(2) Prior to Planning Commission consideration of a condominium project involving conversion of existing buildings, the Building Inspection Division shall submit a report to the Community Development Director specifying any deficiencies of life-safety standards of the Uniform Building Code which are found to exist in the project. This report of the Building Inspection Division shall be submitted to the Community Development Director as an element of the "Report of Property Condition."

9-3-103. TENANT NOTICE OF CONVERSION.

(1) As part of the application for approval of a condominium project, when said project involves the conversion of an existing residential structure where the structure has been occupied by residential tenants prior to application for conversion, the owner/developer shall provide notice of intended conversion to said tenants by certified mail. This notice requirement shall not apply to non-residential structures or to a residential structure that was vacant upon acquisition and remained so during the year prior to filing of the developer's application for conversion; nor shall it preclude the approval of a project prior to the expiration date where every tenant has executed a waiver relinquishing his or her right of notice under this provision.

(2) The Notice of Conversion shall include the following:

- (a) The intention and plans for the conversion of the building to a condominium project;
- (b) The estimated dates of termination of occupancy by tenants which shall not be less than 90 days from the date of notice; and an indication of the approximate dates of construction which shall not be less than 120 days from the date of notice. Tenants shall be given first right to purchase their respective unit upon at least as favorable terms and conditions as said units are offered to the general public;
- (c) Relocation information for the tenants specifying available alternative housing relocation resource agencies and organizations, and a plan of any services to be voluntarily provided by the owner/developer.

9-3-104. SUBMISSION OF NOTICE VERIFICATION.

Prior to or in conjunction with submission of documentation for certification and recording, the owner or developer shall submit to the Community Development Department a copy of said notice together with a list identifying names and apartments or unit numbers, for all tenants within the condominium conversion project. The notice, copy and list shall also be accompanied by an affidavit certifying that all tenants within the condominium project have been personally delivered a copy of the notice or mailed said notices by registered, certified mail, and that the same were in fact delivered. The record of survey map shall not be recorded until said copy of notice, list, and affidavit have been received by the Community Development Department and filed with the City Recorder.

9-3-105. PROTEST REVIEW PROCEDURE.

(1) When a tenant of a residential dwelling has received written formal notice of eviction without cause and without at least 90 days notice of conversion required above, and has reason to believe that notice was issued because of a proposed condominium project, he may, within 30 days of the date of the notice of eviction, initiate an appeal regarding the issue of property notice to the City Council on a form provided by the Community Development Department. The filing of such a protest shall stay the issuance of any approval or issuance of any permits for the structure in question for a period of not to exceed 30 days and the matter shall be set for hearing before the City Council. In such cases, approval shall not be stayed other than by order issued by the district court upon petition, notice and due cause being shown.

(2) Upon filing, a copy of the appeal form shall be forwarded to the West Valley City Housing Authority for relocation advice and assistance. Said agency shall, within 10 days, forward to the City Council a statement of its report and recommendation.

(3) Upon filing of an appeal, the Community Development Director shall institute an investigation to determine if the notice requirements set forth above were satisfied. He shall then report his findings to the City Council.

(4) The City Council shall fix a reasonable time for the hearing of the appeal, give due notice to the appellant and to the owner/developer of the condominium project, and shall, at said hearing, review said appeal together with agency and department reports, recommendations and related permit or subdivision applications, and shall decide the same within 30 days from the date of filing of the appeal.

(5) The City Council, with regard to the hearing of said appeals, may:

- (a) Enforce the attendance of witnesses, the production of books and papers, and administer oaths;
- (b) Direct municipal resources, if necessary, and appropriate to alleviate relocation hardships;
- (c) Hear and decide allegations of error in any order, requirement, decision or determination made by a municipal official in the performance of his duties as related to the above;
- (d) See that the laws and ordinances are faithfully executed and direct investigations accordingly;
- (e) Institute any appropriate actions or proceedings to prevent or punish persons from or for performing any act contrary to the Building and Zoning Ordinances of the City.
- (f) Impose reasonable conditions relating to the terms and conditions upon which the project will be approved which may include suspension of approval pending preparation and implementation of a reasonable relocation plan or services for tenants who have not been given proper notice, or denial of the application in which event the owner/developer may not reapply for 18 months from the date of denial.

**Chapter 9-4
DESIGN STANDARD**

Sections:

9-4-101	MINIMUM STANDARDS REQUIRED.
9-4-102	PARKING REQUIREMENTS.
9-4-103	UTILITY REQUIREMENTS.
9-4-104	MECHANICAL AND HEATING REQUIREMENTS.
9-4-105	GEOGRAPHICAL LAYOUT REQUIREMENTS.
9-4-106	CONSTRUCTION LIMITATIONS.

9-4-101. MINIMUM STANDARDS REQUIRED.

To achieve the purposes and objectives of this Title, all proposals for a new condominium development shall be made pursuant to the provisions of this Chapter. Where the provisions of this Chapter cannot reasonably be complied with in the case of condominium conversions due to the design and location of existing structures and/or roads, the Planning Commission may waive some, or all, of these provisions. The standards and criteria contained herein are intended to provide assurances that the geographical layout of the project is accomplished in a manner which is attractive and is not detrimental to the functioning of the project or surrounding areas; and that the contents of the declaration assure proper operation, construction, maintenance and upkeep of all utilities, facilities, recreation areas, roads and parking areas within the development. In addition to the requirements specified in this Chapter, condominiums shall comply with all applicable requirements of the Design and Development Plan Ordinance, Chapter 7-14 of the West Valley City Municipal Code.

(Ord. No. 97-09 Amended 03/13/1997)

9-4-102. PARKING REQUIREMENTS.

(1) Each unit in a condominium development, irrespective of size, shall conform to the parking provisions contained in the West Valley City Zoning Ordinance.

(2) In addition to any other parking requirements, at least one space per four dwelling units for recreational vehicles and boat storage shall be provided. These spaces may be owned in common or by the Homeowners Association. If conditions within a condominium conversion preclude compliance with this requirement, a provision shall be placed in the bylaws or declaration precluding the parking of recreational vehicles and boats within the condominium development, and such preclusion shall be strictly enforced by the management.

(3) The required front and side yards which face upon a public street shall not be used for vehicular

parking, but shall be landscaped with lawn and appropriate plants and shrubs as indicated on the approved final development plans.

9-4-103. UTILITY REQUIREMENTS.

(1) Each condominium unit within a development shall be separately metered for gas, electricity and water, unless the declarations provide for the Homeowners Association to pay the cost of services and prorate those costs to unit owners on an equitable basis. Such declaration must disclose to the unit owners that non-payment of utility bills by the Association may result in loss of utility service.

(2) Each unit shall be provided with readily-accessible individual shutoff valves, safety devices or switches for water, gas and electrical services.

9-4-104. MECHANICAL AND HEATING REQUIREMENTS.

(1) Each condominium unit shall be equipped with its own heating system, except where a central water or steam system is present.

(2) Each condominium unit shall be provided with its own means of controlling temperature in that unit when the building utilizes a central heating plant. All mechanical work and repairs shall be completed under a permit and shall comply with all applicable building, health and fire codes.

9-4-105. GEOGRAPHICAL LAYOUT REQUIREMENTS.

(1) The area proposed for a condominium development shall be in one ownership during development to provide for full supervision and control of said development, and to insure conformance with these provisions and all conditions imposed upon the preliminary and final development plans.

(2) Condominium development shall have an area greater than five acres. However, the Planning Commission may consider development proposals less than five acres, but not less than one acre, if the development is guided by a total design plan in which three or more of the following development standards are applied or varied to allow flexibility and creativity in site design, building design, and location.

- (a) Development. The Planning Commission may require arrangements of structures, open spaces, landscaping, buffering, and access within the development as necessary. The Commission may require specific setbacks, a lower residential density, a height limitation, and/or a similar type of land use as adjoining land. These criteria shall be used by the Commission to assure that adjacent properties will not be adversely affected by the development and that the development

- will be compatible with the land use in the surrounding area.
- (b) Construction Materials. Quality exterior materials including brick, stone, stucco, or other materials of similar high quality, durability, and low maintenance may be provided, as accepted by the Planning Commission.
 - (c) Interior Amenities. Quality interior provisions, including amenities such as a fireplace, vaulted ceilings, and in-unit washer/dryer hookups.
 - (d) Fencing. Exterior fencing shall include architecturally designed brick or block fences, wrought iron fences, structural wood fences, vinyl fences, or a combination of these materials.
 - (e) Parking. Covered parking and/or garages may be required for all units.
 - (f) Pedestrian and Bicycle Paths. Where appropriate, the internal circulation system shall provide pedestrian and bicycle paths that are physically separated from vehicular traffic to serve residential, non-residential, and recreational facilities in or adjacent to the development.
 - (g) Privacy. Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, insulation, walks, barriers, landscaping, and sound reducing construction techniques shall be used for the enhancement of property and the privacy of its occupants.
 - (h) Security. The development may be designed to support security services, taking into account public safety recommendations from the West Valley City Police Department.
 - (i) Landscaping. The development site may be landscaped and should be composed of natural landscaping elements, including lawn, shrubs, ground covers, and a combination of evergreen and deciduous trees.
 - (j) Home Owner's Association. The development may be approved subject to the submission and approval of legal instruments setting forth a plan or manner of permanent care and maintenance of all common open space and other facilities provided in the final development plan. No such instrument shall be acceptable until approved by the City Attorney as to legal form and effect, and the Planning Commission as to suitability for the proposed use of the common open space and subject facilities.
 - (k) Recreational Amenities. Each development may provide recreation or site amenities, including, but not limited to, clubhouse, pool, tennis courts, sport courts, playgrounds, play fields, and nature areas.
- (3) The final development plan shall be prepared by a design team composed of an architect, a landscape architect, and an engineer or land surveyor, all licensed to practice in the State of Utah.
- (4) Residential density as measured by dwelling units per acre within a condominium development may exceed that permitted by the underlying zone up to a maximum of 20 percent, provided that the density does not exceed the maximum recommended in the West Valley City Master Plan. The Planning Commission and the City Council both must find, however, that any increase in density will be compensated by increased amenities and improved design which, in its opinion, are proportional to the density increase which it authorizes.
- (5) Dedication and improvement of streets shall be made in accordance with the Major Street Plan of the City and further as may be determined by the City Council upon the recommendation of the Planning Commission for special circumstances where it is necessary to serve the vehicular and pedestrian needs of the proposed development and of the City. Said streets shall be constructed to standards set forth for various classes of streets by the City and shall be dedicated to the City as public streets. In instances of severe topography, security requirements or other special circumstances which make dedication or development to City standards impractical or undesirable, the City Council, upon recommendation of the Planning Commission, may allow development of streets to special standards specifically approved as part of the final development plan. Maintenance and repair of non-dedicated streets shall be the perpetual responsibility of the Owners Association, it being understood that this responsibility shall not be borne by the City or any other governmental agency or body.
- (6) With the following exceptions, dwellings and permitted structures may be located as approved in the final development plans. Locations and arrangements of buildings on the lot should be accomplished in a manner that will best utilize the lot area and create an attractive living environment. The following exceptions shall be considered as minimum requirements as they apply:
- (a) Garages with entrances facing directly on public streets, whether in a front or side yard, shall be setback at least 20 feet from such streets.

- (b) Setbacks shall be maintained along the peripheral property lines of the planned development which shall be equal to that required by the zone on the property immediately adjacent thereto. Buildings located on the periphery of the development shall be limited to a maximum height of two stories.
 - (c) In those instances where a proposed condominium development will front upon one or more existing streets, the setback from the street shall be equal to that required by the most restrictive zoning on property immediately adjacent along the same street frontage.
- (7) Open space and recreation requirements: Each project shall meet the following standards for open space and recreational areas:
- (a) Open space shall be provided and shall not be less than 50 percent of the site area in residential condominiums which contain multiple unit structures having three or more units per structure. Residential condominiums which consist of structures containing two or less units shall provide not less than 40 percent open space. The required open space shall be land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required setbacks. Said open space shall be devoted to landscaping, preservation of natural features, patios and recreational areas and facilities. Reduction may be made to this percentage of required open space by the Planning Commission and upon a showing that the open space in the site area will provide amenities; which will substantially meet the needs of future residents.
 - (b) Common open space shall comprise at least 50 percent of the required open space and shall be so designed for uses including, but not limited to, recreational, park or environmental amenity for common enjoyment and use by all residents.
 - (c) Open space in commercial and industrial condominiums shall be not less than 15 percent of the total site. Reduction may be made to this percentage of required open space by the Planning Commission if it can be demonstrated that proposed plan will still achieve the objectives of this Title if the reduction is allowed.

- (d) Preservation, maintenance, and ownership of required open space within the development shall be accomplished by granting to City a permanent open space easement on or over the said private open spaces to guarantee that the open spaces remain perpetually in recreational use with ownership and maintenance being the responsibility of the owner or an Owner's Association established with articles of incorporation and bylaws which are satisfactory to City.

(8) Rental of Condominium Unit: The developer, or owner of property on which the condominium development is located, shall not lease more than 20 percent (20%) of individual units. Legal instruments setting forth this requirement shall be reviewed and approved by the City Attorney prior to development approval.

(Ord. No. 97-09 Amended 03/13/1997)

9-4-106. CONSTRUCTION LIMITATIONS.

- (1) Upon approval of a condominium development, construction shall proceed only in accordance with the plans and specifications approved by the Planning Commission and in conformity with any conditions attached by the Commission to its approval.
- (2) Amendments to approved plans and specifications for a condominium development shall be approved by the Planning Commission and shown on the approved plans.
- (3) The Building Inspector or any other City department shall not issue any permit for any proposed building, structure, activity or use within the project unless such building, structure, activity or use is in accordance with the approved development plan and any conditions imposed in conjunction with its approval.

**Chapter 9-5
ENFORCEMENT****Sections:****9-5-101 ENFORCEMENT.****9-5-101. ENFORCEMENT.**

(1) It is unlawful for any person to sell any unit of any condominium or any other portion thereof until the final record of survey map, in full compliance with the provisions of this Title, have been finally approved by the City Council and duly recorded in the office of the County Recorder.

(2) Any map, permit or license issued or approved in conflict with the provisions of this Title shall be null and void.

(3) Any developer, agent of a developer, owner, successor-in-interest of a developer or owner, tenant, purchaser, builder, contractor or other person who violates any of the provisions of this Chapter or any conditions imposed pursuant to this Title shall be deemed guilty of a class "C" misdemeanor.

(4) The City shall have the authority to enforce this Title against violations thereof by actions including but not limited to the following:

- (a) To serve notice requiring the cessation or correction of any action in violation of this Title upon the developer, agent of the developer, successor-in-interest of the developer or owner, tenant, purchaser, builder, contractor or other person who commits or assists in such violation.
- (b) To deny the condominium project application.
- (c) To maintain an action for injunctive relief to restrain, abate or cause the correction of such violation.
- (d) To institute criminal proceedings.